

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

DZHOKHAR TSARNAEV

No. 13-CR-10200-GAO

JOINT MOTION TO UNSEAL SPECIFIED TRANSCRIPTS AND PLEADINGS

Defendant, Dzhokhar Tsarnaev, and the United States, by and through counsel, jointly move to unseal, either in their entirety or with agreed-upon redactions, as specified in the charts below: additional pleadings (pursuant to the Court's Order of December 16, 2015 [DE 1605]); the questionnaires of the seated jurors and alternates; and the entirety of the *voir dire* and the lobby conferences.

The parties submit that the following pleadings and transcripts may be unsealed in their entirety:¹

Docket No.	Date	Document
145	11/12/2013	Government's Sealed Ex Parte Motion to Seal
146	11/12/2013	Ex Parte Order granting 145
295-4 to -8	5/7/2014	Exhibits to Motion to Suppress Statements
327	5/23/2014	Government's Opposition to Defendant's Motion to Suppress Statements
411	7/8/2014	Sealed Motion for Leave to File Document Under Seal
413	7/8/2014	Sealed Notice Regarding Ongoing Investigation

¹ One of these sealed pleadings was filed but does not appear to have been docketed: the Government's Motion in Limine to Exclude Defense Exhibits 3249 and 3249a (no DE). A copy of this pleading will be filed separately, under seal.

429	7/22/2014	Sealed Motion for Leave to File Document Under Seal
435	7/23/2014	Sealed and Ex Parte Order granting 429
436	7/23/2014	Second Sealed Notice Regarding Ongoing Investigation
574	9/22/2014	Government's Sealed Ex Parte Motion to Seal
575	9/22/2014	Sealed and Ex Parte Order granting 574
599	10/10/2014	Government's Sealed Ex Parte Motion to Seal
600	10/10/2014	Sealed and Ex Parte Order granting 599
602-8	10/10/2014	Exhibit H: Letter dated 08/15/2014 to Defense Counsel from Prosecution
867	12/30/2014	Government's Motion in Limine to Preclude Any Reference to Waltham Triple Homicide or Other Alleged Bad Acts of Tamerlan Tsarnaev
868	12/30/2014	Government's Motion in Limine to Preclude Reference to Plea Negotiations
1034		Transcript: Sealed Jury Trial Day 18 (empanelment) as to DT held 2/13
1100-1; 1100-3	2/27/2015	Exhibit 1: Defendant's Motion to Excuse Juror 138 for Cause Based on Newly Discovered Information; Exhibit 3: Defendant's Motion to Excuse Juror 286 for Cause Based on Newly Discovered Information
1105-1	3/2/2015	Exhibit 1: Defendant's Reply to Government's Opposition to Motion to Excuse Jurors for Cause Based on Newly Discovered Information
1133		Transcript: Sealed Lobby Conference 3/3/15 12:45pm
1146		Transcript: Sealed Lobby Conference 3/12/15
1170	3/3/2015	Peremptory Challenges
1243		Transcript: Excerpt Day 43 (closing argument and rebuttal) held on 4/6/15
1297		Transcript: Sealed Motion Hearing 4/13/15
1306		Transcript: Sealed Lobby Conference 4/17/15
1326	4/24/2015	Supplemental Memorandum in Opposition to Government's Motion in Limine to Preclude Any Reference to Waltham Triple Homicide or Other Alleged Bad Acts of Tamerlan Tsarnaev
1327	4/24/2015	Opposition to Government's Motion in Limine to Preclude Any Reference to Waltham Triple Homicide or Other Alleged Bad Acts of Tamerlan Tsarnaev
1395		Transcript: Sealed Lobby Conference 4/24/15
1444		Transcript: Sealed Lobby Conference 5/11/15
1445		Transcript: Sealed Lobby Conference 5/11/15 #2
1446		Transcript: Sealed Lobby Conference 5/12/15
1509	8/19/2015	Memorandum in Support of Motion for Judgment Notwithstanding Verdict and for New Trial
1510		Transcript: Sealed Lobby Conference 5/13/15
1521		Transcript: Sealed Lobby Conference 3/2/15
1526		Transcript: Sealed Lobby Conference 3/9/15
1527		Transcript: Sealed Lobby Conference 3/10/15
1540		Transcript: Sealed Lobby Conference 3/11/15
1541		Transcript: Sidebar with seated jurors 4/6/15
1548		Transcript: Sealed Lobby Conference 3/17/15
1553		Transcript: Sealed Lobby Conference 3/24/15

1562		Transcript: Sealed Lobby Conference 3/18/15
1573		Transcript: Sealed Lobby Conference 3/31/15
1574		Transcript: Sealed Lobby Conference 3/30/15
1577		Transcript: Sealed Afternoon Lobby Conference 3/31/15
1586		Transcript: Sealed Lobby Conference 4/8/15
1602		Transcript: Sealed Lobby Conference 4/21/15
1613		Transcript: Sealed Lobby Conference 4/23/15
1621		Transcript: Sealed Lobby Conference 4/28/15
1629		Transcript: Sealed Lobby Conference 4/29/15
1630		Transcript: Sealed Lobby Conference 4/30/15
1631		Transcript: Sealed Lobby Conference 5/6/15
1632		Transcript: Sealed Lobby Conference 5/7/15
1633		Transcript: Sealed Lobby Conference 6/23/15
1656		Transcript: Sealed Lobby Conference 12/18/14
1657		Transcript: Sealed Jury Trial Day 44 (Redacted Sidebar Conference) held 4/7/2015
1658		Transcript: Sealed Jury Trial Day 45 (Redacted Sidebar Conference) held 4/8/2015
1663		Transcript: Sealed Lobby Conference 12/26/14
1664		Transcript: Sealed Lobby Conference 1/9/15
1666		Transcript: Sealed Lobby Conference 3/3/15 at 10:41 am
1670		Government Ex Parte Conference 12/08/2014 3:03pm
1671		Government Ex Parte Conference 02/26/15 3:35pm
1735		Transcript: Sealed Lobby Conference from Day 57 held 5/7/2015
No DE		5/6/15 Government's MIL to Exclude Defense Exhibits 3249 and 3249a (only main motion, not exhibits)

The parties submit that the following pleadings, transcripts and questionnaires of seated jurors may be unsealed with redactions of material (1) that is subject to Fed. R. Crim. P. 49.1(a), or (2) that is irrelevant to a judicial determination of either party's substantive rights, implicates protected privacy interests, or otherwise presents a need for continued sealing that outweighs the need for public disclosure. See United States v. Kravetz, 706 F.3d 47 (1st Cir. 2013): ²

² For each pleading or transcript for which we propose redactions, a redacted copy of the document will be filed separately under seal so that it may be docketed, if it meets with the Court's approval.

Docket No.	Transcript	Page and line numbers for redactions
987	Transcript: Sealed Lobby Conference 1/2/15	27.12 to 31.7
988	Transcript: Sealed Lobby Conference 12/30/14	5.3-4
1006	Transcript: Sealed Jury Trial Day 4 (empanelment) held on 1/15	48.17-49.10, 49.13-52.14, 54.11, 83.16-86.14, 89.20-91.8, 100.17-101.18, 108.5-109.4, 128.9-130.4, 140.14, 153.6-153.7, 153.11, 158.9, 158.12, 158.14, 158.15, 158.17, 158.18, 158.19, 159.4, 159.9, 159.16, 160.11, 160.12, 160.15, 160.16, 160.19, 173.15, 180.19-181.10, 181.24-182.7, 187.21, 190.14.
1007	Transcript: Sealed Jury Trial Day 5 (empanelment) held on 1/16	36.1-37.1, 49.16, 65.11, 129.4-130.25, 131.3-131.5, 176.5
1008	Transcript: Sealed Jury Trial Day 6 (empanelment) held on 1/20	15.23-18.25, 47.4-48.4, 49.17-50.11, 80.2, 80.4, 85.2-86.20, 133.16-134.13, 176.5, 205.9-206.12
1009	Transcript: Sealed Jury Trial Day 7 (empanelment) held on 1/21	110.3-111.10, 111.24-111.25
1010	Transcript: Sealed Jury Trial Day 8 (empanelment) held on 1/22	28.1-29.13, 94.19-100.25
1011	Transcript: Sealed Jury Trial Day 9 (empanelment) held on 1/23	18.1-19.14, 32.3-35.7, 62.2, 110.12-110.13, 152.15-153.20, 169.20-172.4, 198.17, 200.7-200.8, 203.15, 204.19-205.11, 208.23-209.8, 209.22, 211.24-211.25, 214.21-215.13
1012	Transcript: Sealed Jury Trial Day 10 (empanelment) held 1/26	10.7-25, 11.9-13, 18.4-19.9, 66.21-68.14, 73.3-76.6, 76.19-76.20, 82.4-85.19, 158.11-159.5, 162.5-162.21
1013	Transcript: Sealed Jury Trial Day 11 (empanelment) held 1/29	52.2-8, 53.16-56.3
1014	Transcript: Sealed Jury Trial Day 12 (empanelment) held 1/30	28.21-29.14, 59.21-62.20, 63.10-63.15, 66.17-67.12, 80.13-81.11
1015	Transcript: Sealed Jury Trial Day 13 (empanelment) held 2/4	23.5-24.8, 63.3-6, 63.15-64.14, 175.1-2
1019	Transcript: Sealed Jury Trial Day 14 (empanelment) held 2/5	33.19-34.2, 34.4-8, 87.7-89.19, 104.17-20, 175.10
1024	Transcript: Sealed Jury Trial Day 15 (empanelment) held 2/6	59.1-6, 176.8, 194.4-196.15, 196.23-197.3, 204.12-205.4, 223.6, 224.8
1026	Transcript: Sealed Jury Trial Day 16 (empanelment) held 2/11	11.24-25, 36.7-9, 41.23-43.1, 152.11-153.24, 160.16-162, 173.7-174.25, 202.1-206.23
1028	Transcript: Sealed Jury Trial Day 17 (empanelment) held on 2/12	32.13-33.2, 33.9-35.20; 54.24; 59.23, 113.17-114.6; 117.6-118.1, 120.24
1041	Transcript: Sealed Jury Trial Day 19 (empanelment) as to DT held 2/17	89.8-90.17, 120.23-123.2, 127.24-129.10
1049	Transcript: Sealed Jury Trial Day 20 (empanelment) held 2/18	10.5-6, 25.25, 53.18-57.15, 89.3-89.4, 108.23-109.14, 109.23-110.23, 173.6-174.8, 181.11-183.13
1052	Transcript: Sealed Jury Trial Day 21 (empanelment) held 2/19	10.2-10, 15.6-16.5, 43.16-45.8,
1058	Transcript: Sealed Jury Trial Day 22 (empanelment) held on 2/20	22.3-22.25, 31.12-33.8, 67.2-3, 81.15-22

1075	Transcript: Sealed Jury Trial Day 23 (empanelment) as to DT held 2/24	28.20, 40.1-41.6, 41.8-42.13, 60.19-61.14, 63.17-65.14, 77.18-78.5, 81.1-83.5, 152.24-153.8, 161.11
1083	Transcript: Sealed Jury Trial Day 24 (empanelment) held 2/25	79.7-79.8, 108.25, 109.5, 113.12
1522	Transcript: Sealed Lobby Conference 3/3/15 at 10:10 am	5.3; 5.4; 5.5
1665	Transcript: Sealed Lobby Conference 1/14/15	14.22, 15.22-23, 16.3, 19.9, 19.19
1100-2; 1100-4	Exhibits 2 and 4; 2 Facebook materials; 4 Twitter materials	Exhibit 2: names and photos of juror's Facebook friends; Exhibit 4: juror's Twitter photo; photos and Twitter handles of civilians
1106-1	Exhibit 1: Opposition to Defendant's Last-Minute Motions to Strike Various Qualified Jurors for Cause and Request to Foreclose Further Motion to Strike and Further Briefing on the Already-filed Motions to Strike	Names of prospective jurors who were not seated
1509-B	Exhibit B pages: 2015-05-15 Mike Neal's status 4:20pm Parts 1 & 2; 2015-05-15 Mike Neal's friend's status; 2015-06-24 Kimberly Savage's status; 2015-06-24 Mike Neal's status 6:52am; 2015-06-24 Mike Neal's status 12:23pm; 2015-06-25 Mike Neal's status	Names and photos of friends of jurors
No DE	Juror Questionnaire Numbers 35, 41, 83, 102, 138, 229, 286, 349, 395, 441, 480, 487, 552, 567, 588, 598, 608, 638	DOBs of juror; full addresses; age, occupation, residences of jurors' children and siblings (except for Juror 286); anything marked "private" by jurors

Respectfully submitted,

DZHOKHAR TSARNAEV

ANDREW E. LELLING
United States Attorney

by his attorneys,
/s/ David Patton

By: /s/ Nadine Pellegrini
Nadine Pellegrini
Assistant U.S. Attorney

David Patton, Esq. (NY Bar # 3926813)
Federal Defenders of New York, Inc.
52 Duane Street, 10th Floor
New York, NY 10007
(212) 417-8700
DAVID_PATTON@FD.ORG

Clifford Gardner, Esq. (CA Bar # 93782)
Law Offices of Cliff Gardner
1448 San Pablo Avenue
Berkeley, CA 94702
(510) 524-1093
CASETRIS@AOL.COM

Gail K. Johnson, Esq. (CO Bar # 29703)
Johnson & Klein, PLLC
1470 Walnut Street, Suite 101
Boulder, CO 80302
(303) 444-1885
GJOHNSON@JOHNSONKLEIN.COM

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on July 13, 2018.

/s/ David Patton